

**BEFORE THE  
FEDERAL COMMUNICATIONS COMMISSION  
WASHINGTON, DC 20554**

**In the Matter of**

**Joint Application by BellSouth Corporation,  
BellSouth Telecommunications, Inc., and  
BellSouth Long Distance, Inc. for Provision  
of In-Region, InterLATA Services in  
Georgia and Louisiana**

**CC Docket No. 02-35**

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**REPLY COMMENTS OF THE LOUISIANA PUBLIC SERVICE COMMISSION**

The Louisiana Public Service Commission submits the following reply comments in support of the application of BellSouth Telecommunications, Inc. (“BellSouth”) to provide interLATA service in Louisiana. The Louisiana Commission incorporates by reference and reasserts all of its comments filed in CC Docket No. 01-277, including the Evaluation of the Louisiana Public Service Commission filed October 19, 2001 (“Evaluation”), the Reply Comments of the Louisiana Public Service Commission filed November 13, 2001, and the Comments filed in CC Docket No. 02-35 on March 6, 2002. The reply comments provided herein will address the Louisiana Commission’s continuing efforts to promote competition in the local service market and respond to comments of other parties to this proceeding, including the March 21, 2002 recommendation issued by the Department of Justice. In addition, the Louisiana Commission will address specific issues raised by the staff of the Federal Communications Commission (“FCC”) during conversations with the Louisiana

Commission, including loading factors, feature costs, winback activities, and issues concerning the Louisiana SEEMS plan.

**I. Non-Discriminatory Access to OSS**

In its November 6, 2001 Evaluation, the DOJ expressed concerns about the capabilities of Bellsouth's OSS, in particular (1) service order problems associated with the two order conversion process known as the "N" and "D" order process, (2) excessive and inaccurate handling of manual orders, (3) TN migration, (4) Interface availability and (5) performance data reliability. In its most recent Evaluation recommending approval of the re-filed application, the DOJ acknowledges the changes and improvements that have been made in BellSouth's OSS under the direction of the state commissions, and that final completion of the metrics audit under the auspices of those commissions will further improve the accuracy and reliability of BellSouth's performance data.

**Changes to Facilitate Automated Handling of CLEC Orders**

The DOJ acknowledged that important enhancements have been made to BellSouth's OSS to improve the automated handling of CLEC orders. *See DOJ Georgia/Louisiana II Evaluation, at p. 7.* This includes, for example, BellSouth's compliance with the Georgia Commission's order to implement telephone number migration ("TN migration") and electronic ordering capabilities for DSL competitors, as well as its implementation of the parsed CSR functionality in compliance with the Louisiana and Georgia commission orders. Pursuant to our LPSC Order dated February 21, 2002 in Docket No. U-22252-C, BellSouth filed an affidavit into the record on

February 3, 2002 stating that it has complied with the requirement to implement the fully parsed CSR functionality.<sup>1</sup>

In addition and as we have previously noted, we have addressed problems associated with the “N” and “D” conversion process by ordering BellSouth to implement a single order process no later than April 1, 2001. The Louisiana Commission was the first state commission to order BellSouth to implement the single-C order process, although the Georgia Commission subsequently ordered it to be implemented at an earlier date. We understand from a recent public filing at the Georgia Commission that, on March 23, 2002, BellSouth implemented Release 10.4, which included the single “C” order process. We anticipate that BellSouth will file the affidavit we have required to be filed on April 2, 2001 indicating that it has complied with our order in this regard.<sup>2</sup>

The DOJ commends the recent improvements in BellSouth’s OSS as “positive developments that should permit new entrants to operate more efficiently,” and cites recent performance data that bears this out. *See DOJ March 21, 2002 Evaluation, at p. 11* (“BellSouth’s CLEC order reject rate has significantly improved since the Department’s Georgia/Louisiana I Evaluation was filed, likely due to the introduction of TN migration...” and “[i]n particular, the reject rate for UNE-P platform orders has fallen

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<sup>1</sup> The LPSC’s 271 order dated September 21, 2001 in Docket No. U-22252-E required among other things that the LPSC Staff create a measure for disconnects associated with the two-order conversion process in the on-going workshops in Docket No. U-22252-C, along with associated penalties. The LPSC created this measure and associated penalties in LPSC Order No. U-22252-C-2. Additionally, we found that AT&T’s request for penalties to be imposed in the event this functionality was imperfectly implemented would be considered in our ongoing workshops. No party has filed comments in Docket No. U-22252-C complaining about BellSouth’s implementation of the parsed CSR functionality, despite being given ample opportunity to do so. We do note that AT&T and MCI WorldCom have raised this issue in the February 8, 2002 informal collaborative sponsored by Commissioner Irma Dixon. *See Action Item 86, LPSC Collaborative Workshop Action Plan, Revised 2/8/2002, attached hereto as Exhibit 3.* Staff has requested and received additional information and, after reviewing that information, will determine whether or not formal action will be required in the workshops in Docket No. U-22252-C.

from 19.3 percent in September to 14.33 percent in December 2001”). To the extent that the DOJ may harbor misgivings regarding the sustainability of these results, the LPSC’s on-going CLEC service quality reviews in Docket No. U-22252-C should provide the necessary assurance that there is an appropriate forum to address and handle any deficiencies in performance.

## **II. Louisiana Commission’s Six-Month Review**

The Louisiana Commission commenced its six-month review in Docket U-22252-C in October of 2001. Two workshops have been held, one on January 9-10, 2002, and the second on March 13-14. A copy of the agenda and matrix of open issues for the first workshop was attached to this commission’s original comments filed on March 4, 2002. A copy of the agenda and updated matrix for the second workshop is attached hereto as *Exhibit 1*. An additional workshop is scheduled for April 30, 2002.<sup>3</sup> At that workshop, the parties will address comments scheduled to be filed concerning proposed changes to the SQM and the Louisiana SEEMs plan. Staff anticipates that one additional workshop will be required in May to come to closure and that it will issue its recommendation thereafter. It is the intent of the Staff of the Louisiana Commission to reexamine the Delta, Epsilon, Psi, and possible further disaggregation during this review. Further, it is Staff’s present intent to recommend to the Louisiana Commission a change in the current Delta to make it consistent with the Delta in Georgia. Staff will also recommend increasing the amount of penalties for those Tier 1 measures, if any, where BellSouth has demonstrated a consistent inability to meet the applicable benchmark.

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<sup>2</sup> The issue of whether or not any penalties should be paid if the single C order system fails to function properly will be addressed in the on-going workshops in Docket No. U-22252-C. *See LPSC Order No. U-22252-C-2, at p. 8.*

<sup>3</sup> Notice of the April 30, 2002 SQM Workshop is attached hereto as *Exhibit 2*.

The Staff of the Louisiana Commission does not intend to reconsider the establishment or size of the procedural cap. In Docket U-22252-C, the CLEC community argued in favor of a procedural cap, which BellSouth argued against. It was the Staff's recommendation, adopted by the LPSC, that a procedural cap be put in place. To the extent that BellSouth exceeds this cap, it is BellSouth's burden to demonstrate why it should not pay in excess of the procedural cap. In effect, the procedural cap is no cap, therefore, the Louisiana Commission does not anticipate revisiting the issue.

### **III. Efforts to Improve Service Order Accuracy**

The DOJ's Georgia/Louisiana I Evaluation expressed concern regarding BellSouth's reliance on manual processes, and its failure to meet applicable benchmarks for service order accuracy. We responded to those concerns in our Reply Comments. *See LPSC Reply Comments, November 13, 2001, pp. 5-8.* BellSouth filed additional evidence on this point in its Supplementary Application. In the DOJ Georgia/Louisiana II Evaluation, the DOJ acknowledged with favor the substantial performance improvements in this area, as well as BellSouth's agreement to include the Service Order Accuracy metric in the SEEMs enforcement plan. *See DOJ Georgia/Louisiana II Evaluation, at p. 12.*

Both the Georgia and Louisiana commissions continue to examine this measure. As the result of discussions at the January workshop in the six-month review in Docket No. U-22252-C, the parties agreed to include the Georgia Service Order Accuracy measure and benchmark in the Louisiana SQM, effective with January data, pending additional review in the six-month review.<sup>4</sup> BellSouth also agreed to voluntarily include

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<sup>4</sup> This metric was not originally part of the Louisiana SQM. It was included in the reporting of Louisiana performance data filed with the FCC because BellSouth used the MSS format for reporting of Louisiana

the metric in the SEEMs plan as a Tier 2 penalty. BellSouth met the agreed upon benchmark for this measure in January.

This measure was thoroughly discussed at the March 13<sup>th</sup> workshop in the ongoing six month review, and Staff directed WorldCom to submit a proposed redlined version of this measure to include its “wish list” of what the CLECs wanted included or excluded from this measure. Staff has received this proposed revision and has forwarded it to the parties for review. It is Staff’s intent to finalize this measure and ensure that it is accurate and captures what the CLECs require. Further, the Louisiana Commission understands that the Georgia commission is considering requiring BellSouth to develop an electronic process to review all partially mechanized CLEC orders (Georgia Evaluation, p. 19), and that the DOJ supports this effort (DOJ Georgia/Louisiana II Evaluation, p. 12). The FCC can rest assured that this option will be given serious consideration by Staff in Louisiana.

The DOJ’s approval of BellSouth’s improvements in service order accuracy appear to be somewhat marred by its disapproval of the manner in which BellSouth altered the calculation of this measure in November of 2001. Two things are worth noting initially. First, the DOJ expressly states that it is not taking issue with the validity of the current metric itself. *See DOJ Georgia/Louisiana II Evaluation, at p. 13 n. 57.* Second, it appears that the Georgia Commission has concluded that the changes BellSouth made were consistent with the metric that it ordered. *See Georgia Evaluation, p. 19 n. 17.* That being said, however, this commission shares the DOJ’s concerns. MCI

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data at the FCC, i.e., the Georgia SQM format. We discussed our acceptance of this format for purposes of the 271 proceeding in LPSC Order No. U-22252-E dated September 21, 2001. BellSouth has continued to report Louisiana data pursuant to the Louisiana SQM format in Louisiana and we are continuing to monitor it in the six-month review.

WorldCom raised this issue in the March 13<sup>th</sup> workshop in the six-month review in Docket No. U-22252-C. At Staff's suggestion, BellSouth has agreed to implement a process of advance notice to CLECs of any changes to the calculation of the metrics in order to give them an opportunity to object or otherwise comment. Implementation of this process will be a subject of future workshops.

#### **IV. Developments Regarding the Change Control Process**

DOJ expressed concern about BellSouth's CCP, including the processes by which improvements are made to the OSS, as well as adequacy of procedures for testing those changes prior to release.<sup>5</sup> It went on to note, with approval, the positive steps taken in this area as the result of recent Georgia workshops and its expectation that BellSouth will comply with whatever approach results from that process. *See DOJ Georgia/Louisiana II Evaluation, at pp. 15-18.*

AT&T and WorldCom complained about the CCP process at a recent informal CLEC collaborative sponsored by Commissioner Irma Muse Dixon on February 8, 2002. A copy of the revised action item matrix issued as a result of that collaborative is attached to these reply comments as *Exhibit 3*. In light of the on-going proceedings in Georgia in which changes to the CCP are being proposed and considered, the parties agreed that the appropriate action for this commission to take is to monitor the Georgia proceedings closely and to permit the CLECs to return to the Louisiana Commission in the event they are not satisfied with the outcome of the Georgia process. In response to requests from the commission Staff, BellSouth has provided information concerning the Georgia proceeding, including the red-lined CCP document that the CLECs have submitted to the

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<sup>5</sup> This commission responded to similar concerns expressed by the DOJ in its initial Evaluation at pages 1 – 2 of the LPSC Reply comments filed on November 19, 2001.

Georgia commission in that docket. Staff is actively monitoring the Georgia proceeding and will continue to do so.

**V. Reliability of BellSouth's Performance Data**

While commending the efforts of the state commissions to develop robust sets of performance measurements, the DOJ's Georgia/Louisiana I Evaluation questioned the reliability of BellSouth's performance data due in large part to BellSouth's re-posting of certain data, most notably flow through data, for certain months in the summer of 2001. We note, in this regard, that BellSouth has not re-posted any data with this commission since its November 16, 2001 filing in which it corrected flow through data previously reported for June through September. In its most recent Evaluation, the DOJ "is encouraged that performance reports are being restated less frequently and agrees that this could indicate that the current systems are becoming more stable." *See DOJ Georgia/Louisiana II Evaluation, p. 18.* It states further that "[o]n balance, the progress of the [KPMG Georgia] audit, coupled with the Georgia PSC's recent judgment that the data are reliable in light of its close monitoring of the audit, suggests that the stability and accuracy of BellSouth's performance data are improving." *Id.*

The Louisiana Commission (like the Georgia Commission) remains satisfied that BellSouth's data is sufficiently reliable, and that this commission has put into place the necessary tools to assure continued reliability. In its LPSC Order No. U-22252-C dated May 14, 2001, this Commission confirmed that BellSouth's performance data would be subject to an annual comprehensive audit by an independent third party. The first such audit is underway. Recently, LPSC Staff permitted the parties to comment on a Master Test Plan prepared by KPMG for this audit. Staff and the parties debated and discussed



these comments at the January and February workshops in the six-month review in Docket No. U-22252-C. Staff held the first Audit Meeting on March 18, 2002. An internal Audit meeting is scheduled for April 12, 2002, at which time the Master Test Plan will be finalized and a meeting will be established for the CLEC community to ask questions.

**VI. AT&T's Allegations Regarding a "Price Squeeze" in Louisiana.**

AT&T apparently continues to allege that the UNE prices set by this Commission in Order No. U-24714-A dated September 21, 2001 will doom residential competition in this state. We rejected this argument when WorldCom lobbied it before the vote in the cost docket (Docket No. U-24714-A); we rejected it when AT&T made this argument in its comments regarding BellSouth's original joint application (*see LPSC Reply Comments, November 13, 2001, pp. 12-1*); and we reject them again herein.

First, and most importantly, AT&T's allegations are wholly belied by the undisputed existence of growing residential competition in Louisiana today. The DOJ acknowledged in its most recent Evaluation that facilities-based competition for residential customers has been strengthened by the entry of Cox Louisiana Telcom, a cable telephony provider, and that the use of the UNE-platform has increased recently in Louisiana. *See DOJ Georgia/Louisiana II Evaluation, at p. 6.* Cox Louisiana Telcom is marketing packages of residential services in New Orleans and surrounding areas, including packages of voice service, features and long distance service priced below BellSouth's current retail tariffed rates. It has announced that it intends to expand its services into Baton Rouge next year. *See The Advocate On Line, 2/9/02.* Moreover, Advanced Tel Inc. d/b/a EATEL, a CLEC owned and operated by an independent local

exchange company in Louisiana, is offering similar packages of residential services throughout the state of Louisiana.<sup>6</sup> In numerous press articles touting Advanced Tel's entry into this market, its president, Dan Ahern, directly attributes the economic viability of his company's expansion into this market to the Louisiana Commission's new rates established in September of 2001. *See Town Talk*, 2/14/02; *Business Report*, 2/26/02; *The Advocate On-Line* 2/9/02. Indeed, in one such article, he is attributed with stating that "any competitor should thrive under the current UNE pricing if it can sell customers on additional features, such as three-way calling or call waiting. 'That's where you really make extra money.' " *See The Advocate*, 2/15/02.

Second, the Louisiana Commission does not believe that any price squeeze exists in Louisiana. The reality of the market place today, as AT&T well knows, is that competitors do not market simple voice grade service to residential customers. Competitors target high volume, high revenue customers with packages of services, including voice lines, features, long distance and other services. This commission is very familiar with BellSouth's retail tariffed rates for features and packages such as Complete Choice. There is no doubt that any competitor can make a viable business case for comparable offerings.

Finally, and assuming theoretically without agreeing that a "price squeeze" may occur in something less than the residential market as a whole, for example, in certain areas for certain customers who subscribe only to certain minimum services, then any such "squeeze" would be the result of this commission's historic social pricing policy and not the inappropriate setting of UNE rates. This pricing policy has served the customers

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<sup>6</sup> Advanced Tel's tariff indicates that it is offering residential service in New Orleans, Baton Rouge, Lafayette, Shreveport, Ruston, Monroe, Alexandria and a host of other smaller cities in Louisiana.

of Louisiana well over the years and this commission has no present intention of revisiting that policy to accommodate certain CLECs who claim, without justification, that they will not enter residential markets without certain guaranteed profit margins on each and every residential customer.

## **VII. LOADING FACTORS**

In its comments, WorldCom correctly notes that “[t]he engineered, furnished, and installed (EF&I.) cost of the equipment is [...] determined by applying loading factors to [the] material cost.” (Comments, p. 36.) In contrast, WorldCom incorrectly claims that “[t]he manner in which these factors were developed is not described in BellSouth’s documentation of its cost models.” Therefore, WorldCom suggests that until BellSouth adequately describes the development of these factors, it is impossible to determine whether they accurately reflect legitimate costs of designing and placing the equipment. WorldCom apparently failed to read the documentation submitted by BellSouth as part of its filing in the LPSC’s Docket No. U-24714, Subdocket A. In the documentation section of the information submitted by BellSouth in both hard copy and electronic form, under LaNar.doc, Section 4, In Plant Loading Factors, BellSouth provided a description of the in-plant loading factors that WorldCom complains about.

The In-Plant Loading factors add engineering and installation labor and miscellaneous equipment to the material price and/or vendor installed price, that is, the In-Plant Loading converts the material price to an installed investment. The installed investment is the dollar amount that is recorded in the capital accounts. In-Plant loadings are account specific. There are two types of in-plant loadings used in these studies: 1) Material Loading, 2) Telco Loading. The Material Loading is applied to a material price and the Telco Loading to the vendor-installed investment. The data sources are the 1998 State and Local Sales Taxes, Resource Tracking

Analysis and Planning (RTAP) System, and Special Report/File 542 - 1998 Investments.

A summary of the In-Plant Loading factors used in these studies and worksheets showing their development are included in Appendix E. (LaNar.doc, Section 4, p. 2.)

Furthermore, the worksheets referred in the documentation were also provided to the parties to this proceeding in electronic form so that the files could be changed or modified as saw fit by the parties. WorldCom apparently failed to take the time to comprehend BellSouth's filing in Docket No. U-24714, Subdocket A and its comments should therefore be rejected.

In addition, WorldCom's comments about the BellSouth loading factors distorting the cost of cable in more densely populated areas should be rejected. (WorldCom Comments, p.37.) WorldCom never attempted to prove its allegations with evidence to the contrary, instead it merely suggests that there is a distortion.

BellSouth's witness, Caldwell, points out that if anything, the use of in-plant factors tends to understate the total cost of the installed copper under the model used to calculate UNE prices. Unlike WorldCom's unsupported allegations, Ms. Caldwell presented evidence that the BellSouth Loop Model (BSTLM) would, under WorldCom's suggestion, understate the cost of copper facilities placed using the BSTLM. (Docket No. U-24714, Caldwell Rebuttal, p. 61-62.) WorldCom's comments about in-plant factors should be rejected, as they were by the Louisiana Commission.

#### **VIII. FEATURE COSTS**

WorldCom claims that the Louisiana Commission acted without explanation in associating a cost with vertical features. (WorldCom Comment, p. 38.) WorldCom further suggests that the costs claimed by BellSouth for the provision of features was

added to the switch usage costs even though those costs already included sufficient hardware and software costs to provide features. WorldCom is simply wrong. First, the costs claimed by BellSouth were not added to the switching charge. The costs added to the switching charge were those recommended by the Staff, which was approximately \$.40 less than the amount requested by BellSouth. Second, there was considerable discussion at the LPSC's Business and Executive Session (B&E), held September 19, 2001 on this subject. At this B&E, the LPSC adopted the methodology of including the feature costs in the per MOU switching charges. The Staff demonstrated to the Commissioners during the Session, that including these costs in the per MOU switching charges resulted in an average cost for switching for BellSouth that was at or below the average switching costs of other RBOCs. As discussed at the B&E, the Staff presented the average switching costs of Texas at \$6.21, New York at \$13.15, Oklahoma at \$8.44, and Georgia at \$6.26. This compared to the average switching costs of BellSouth in Louisiana of \$6.63. All parties to this proceeding attended this B&E and were afforded an opportunity to speak and voice an opinion. While two parties spoke, including WorldCom, they did not speak to the issue of feature costs. The Commission found the average cost of the total switching element to be just and reasonable.

Furthermore, there was sufficient evidence in the record that there are incremental costs associated with features. (*See Docket No. U-24714, Rebuttal Testimony Daonne Caldwell, pp. 54-57.*) For example, Ms. Caldwell explained that:

Based upon the plentiful evidence that switches are call-processing limited, and features present an incremental operating load (and cost) to the switch processors, the testimony of Ms. Wilsky and Mr. Wood to the contrary is uninformed and should be disregarded.

Additionally, Ms. Wilsky and Mr. Wood's statement that the "hardware involved is the switch processor" is wrong. (Wilsky/Wood Testimony, Page 80, Line 19) The "hardware" is composed of specialized hardware that is required to make some features function; equipment that is not considered in a POTS office; for example, three-port conference circuits that enable three-way calling. (Ibid., p. 56.)

Contrary to the allegations of WorldCom, there was substantial evidence in the record to support a cost associated with features. The Commission should reject WorldCom's comments in this regard as unfounded.

#### **IX. WINBACK ACTIVITIES**

In accordance with Commission Order No. U-22252-E, dated September 21, 2001, attached to the Evaluation as Exhibit 1, p. 3, the Louisiana Commission prohibited BellSouth from engaging in any winback activities for 7 days once a customer switches to another local telephone service provider, including (1) prohibiting BellSouth's wholesale divisions from sharing information with its retail divisions, at any time, such as notice that certain end users have requested to switch local service providers, and (2) prohibiting BellSouth from including any marketing information in its final bill sent to customers that have switched providers. Furthermore, any anti-competitive behavior such as a violation of the winback provisions stated above is subject to fines and penalties at the Commission's discretion. (*See Transcript from LPSC September 29, 2001, B&E Meeting, p. 48, attached to Evaluation as Exhibit 5.*)

To date, the Louisiana Commission has not received any complaints or administrative filings alleging BellSouth's violation of this provision of the Commission Order. To the extent that any CLEC believes that BellSouth has violated the Louisiana Commission's winback prohibitions, the Louisiana Commission encourages the CLEC to file a formal complaint so that the matter can be investigated and addressed. The

Louisiana Commission is the appropriate forum to address allegations of this nature, not this 271 proceeding.

Respectfully submitted,  
**LPSC LEGAL DIVISION**

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